

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA	§	
	§	CASE NO. 7:08-CV-061
v.	§	(Lead Case)
	§	
	§	TRACT NO. RGV-RGC-1045
26.774 ACRES OF LAND, MORE OR LESS,	§	RGV-RGC-1046
SITUATED IN STARR COUNTY, TX; et al.,	§	(Expired access easements only)

UNITED STATES OF AMERICA	§	CASE NO. 7:08-CV-190
	§	(Member case)
v.	§	
	§	
2.94 ACRES OF LAND, MORE OR LESS,	§	
SITUATED IN STARR COUNTY, TX; et al.,	§	

STATUS REPORT

COMES NOW the United States of America (“United States”), and files this Status Report to inform the Court regarding the status of this case:

PROCEDURAL BACKGROUND

1. On December 7, 2018, the United States filed its most recent status report in this case.¹ Therein, the United States stated its intention to file an Amended Declaration of Taking (“ADT”) and Amended Complaint in Condemnation (“Amended Complaint”) to, among other things, clarify the description and plat of the land acquired based on final surveys and title results, and add any new parties identified as having an interest.² Once the ADT and Amended Complaint were filed, the United States stated it could work to resolve title and just compensation issues.³

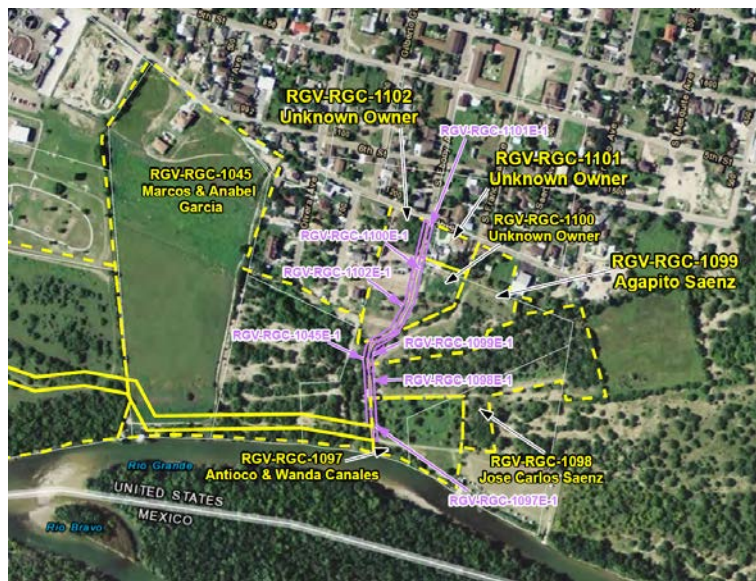
¹ Dkt. No. 28.

² *Id.*, at 3.

³ *Id.*, at 3.

2. On December 19, 2018, the Court issued an order, ordering the United States to file its ADT and Amended Complaint by February 20, 2019 to ensure a timely resolution of this case.⁴

3. On January 18, 2019, the United States filed its ADT and Amended Complaint.⁵ As explained therein, when the United States initially filed Civil No. 7:08-cv-190 to acquire Tract RGV-RGC-1045 (fee simple), RGV-RGC-20145E-1 (perpetual road easement), RGV-RGC-1045E-2 (temporary access easement), and RGV-RGC-20145E-3 (temporary access easement), the United States believed that said tracts fell within a single larger parcel.⁶ However, based on final surveys and title results showing seven different larger parcels, the United States separated the above-referenced tracts into smaller tracts, now known as Tracts RGV-RGC-1045, RGV-RGC-1045E-1, RGV-RGC-1045E-2, RGV-RGC-1097E-1, RGV-RGC-1097E-2, RGV-RGC-1098E-1, RGV-RGC-1098E-2, RGV-RGC-1099E-1, RGV-RGC-1099E-2, RGV-RGC-1100E-1, RGV-RGC-1100E-2, RGV-RGC-1101E-1, RGV-RGC-1101E-2, RGV-RGC-1102E-1, and RGV-RGC-1102E-2.⁷ A map of these tracts is below.



⁴ Dkt. No. 29.

⁵ Dkt. No. 30; Dkt. No. 31.

⁶ Dkt. No. 31, at 2.

⁷ *Id.*

4. On January 22, 2019, the Court issued an order, ordering the parties to appear for a status conference on April 16, 2019, or alternatively file a status report by April 11, 2019.⁸

STATUS UPDATE AS TO ALL TRACTS

5. The tracts at issue herein are located within Porcion 73, of the former Mier Jurisdiction, in Starr County, Texas. Upon information and belief, Porcion 73 was originally granted to “Miguel Saens” a/k/a “Miguel Saenz” in 1767 by the Spanish Government.⁹ In 1857, the State of Texas issued a patent, relinquishing Porcion 73 to “Miguel Saens, and his heirs or assigns.”¹⁰ Porcion 73 has never been judicially partitioned. As such, the United States’ title examination/report named, apparently out of caution, all “unknown heirs and assigns of Miguel Saenz” as an interested party as to all of the subject tracts.¹¹

6. On March 20, 2019, the United States filed its Certificate of Publication, certifying therein that publication of the Notice of Condemnation had been accomplished as to the parties identified as having an interest who could not be personally served, and after diligent inquiry within the State of Texas, whose place of residence is unknown.¹² No person came forward claiming an interest simply by virtue of being an heir/descendant of Miguel Saens. As such, the United States anticipates that it will shortly file a motion to dismiss the “unknown heirs and assigns of Miguel Saenz” from this case.

TRACTS RGV-RGC-1045, E-1, E-2 STATUS UPDATE

7. The United States is in the process of resolving title as to these tracts. The current possessor of Subject Property, **Marcos and Anabel Garcia (through their son Lizandro Garcia)**

⁸ Dkt. No. 29.

⁹ See e.g., *State v. Valmont Plantations*, 346 S.W.2d 853, 870-72 (Tex. Civ. App.-San Antonio 1961), aff’d, 163 Tex. 381, 355 S.W.2d 502 (1962) (describing the King of Spain’s 1767 order to grant these lands to colonists in Camargo, Mier, and Reynosa).

¹⁰ Gov’t Exh. 1 (Vol. K, Pg. 83, Official Records of Starr County, Texas)

¹¹ Dkt. No. 31-1, at 91-94.

¹² Dkt. No. 44.

claim, under deeds, that they exclusively owned the property at the time the United States acquired these tracts in 2008.¹³ No other specific party was identified as having an interest in these tracts, apart from the “unknown heirs and assigns of Miguel Saenz.”

8. However, after service by publication, an individual named Maribel Salinas contacted the undersigned last week to explain that she believes her family has an interest in these tracts. Specifically, she stated that a prior conveyance to Marcos and Anabel Garcias in 2005 was invalid, and she has presented numerous documents that the undersigned is reviewing. Additionally, the undersigned plans to meet with Ms. Garcia next week to discuss her claim and determine if she is specifically requesting to be added to this case.

TRACTS RGV-RGC-1097E-1, E-2 STATUS UPDATE

9. Title appears to be clear as to these tracts. Specifically, **Randal Canales** was the only individual identified as having an interest, supported by deed records, apart from the “unknown heirs and assigns of Miguel Saenz.”¹⁴

TRACTS RGV-RGC-1098E-1, E-2 STATUS UPDATE

10. Title appears to be clear as to these tracts. Specifically, **Jose Carlos Saenz** was the only individual identified as having an interest, supported by deed records, apart from the “unknown heirs and assigns of Miguel Saenz.”¹⁵

TRACTS RGV-RGC-1099E-1, E-2 STATUS UPDATE

11. The United States is in the process of resolving title as to these tracts. The United States’ title examination/report found that these tracts were owned by the Heirs of Agapito Saenz, Jose Carlos Saenz, Martina Saenz, and Maria Albina Saenz.¹⁶

¹³ Dkt. No. 31-1, at 91.

¹⁴ Dkt. No. 31-1, at 91.

¹⁵ Dkt. No. 31-1, at 92.

¹⁶ Dkt. No. 31-1, at 92.

12. After discussing the matter with the Saenz family, the United States believes the title issues can be resolved shortly with an affidavit of heirship for Agapito Saenz and Martina Saenz, which will leave only Jose Carlos Saenz and Maria Albina Saenz Gonzalez as the interested parties. The undersigned will work with the Saenz family to obtain these affidavits, and proceed to file motions to dismiss these the deceased parties because their heirs are already in the case.

TRACTS RGV-RGC-1100E-1, E-2 STATUS UPDATE

13. Title appears to be clear as to these tracts. Specifically, **Jose Carlos Saenz** was the only individual identified as having an interest, supported by deed records, apart from the “unknown heirs and assigns of Miguel Saenz.”¹⁷

TRACTS RGV-RGC-1101E-1, E-2 STATUS UPDATE

14. Title appears to be clear as to these tracts. Specifically, **Jose Carlos Saenz** and his wife Veronica Marquez Saenz were identified as having an interest, supported by deed records, apart from the “unknown heirs and assigns of Miguel Saenz.”¹⁸

15. Citizens State Bank had also been identified as having an interest, but this bank filed a disclaimer and was dismissed from the case on March 7, 2019.¹⁹

TRACTS RGV-RGC-1102E-1, E-2 STATUS UPDATE

16. The United States is in the process of resolving title as to these tracts. The United States identified Jose Carlos Saenz as having an interest in a portion of these tracts.²⁰ However, the United States also identified five members of a Garza family as having an interest.²¹

¹⁷ Dkt. No. 31-1, at 92.

¹⁸ Dkt. No. 31-1, at 93.

¹⁹ Dkt. No. 40; Dkt. No. 43.

²⁰ Dkt. No. 31-1, at 93.

²¹ Dkt. No. 31-1, at 93-94

17. After discussing the matter with the Garza family, the United States believes that the title issues can be resolved shortly. Specifically, the undersigned has learned that this Garza family may have partitioned the Subject Property among themselves, and recently recorded deeds in Starr County evidencing same. Additionally, the United States learned that one member of this family, Julio Alfonso Garza, recently died intestate, and his interest passed to his two daughters.

18. As to next steps to resolve title, the undersigned will shortly: (1) obtain the affidavit of heirship for Julio Alfonso Garza and file a motion to substitute his daughters in his place; (2) meet with the Saenz family and Garza family to confirm if they jointly own these tracts, or if they have clear boundary lines showing what each family owns; and (3) file a motion to dismiss the Estate of Romeo Garza, as his heirs are apparently already named parties in this case.

SUBORDINATED INTERESTS STATUS UPDATE

19. The United States acquired the above-referenced tracts, subject to “existing easements for public roads,” and “highways,” and “public utilities.”²² However, the United States identified the City of Roma, Texas as potentially having an interest due to a right-of-way easement and a utility easement.²³ The undersigned will contact the City’s attorneys to determine if the City believes that the acquisitions in this case affect its easements.

PRAYER

The United States respectfully requests that the status conference currently scheduled for April 16, 2019 be continued for at least sixty (60) days in order that the United States can work with the parties, who are all *pro se* (except for the City of Roma), to resolve the outstanding title issues in this case by the next status conference, as described above. Once title is resolved, the United States expects to be able to move forward on the just compensation issues.

²² Dkt. No. 31-1, at 86-87.

²³ Dkt. No. 31-1, at 95.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney
Southern District of Texas

By: *s/Christopher D. Pineda*
CHRISTOPHER D. PINEDA
Assistant United States Attorney
S.D. Tex. Bar No. 1055715
Texas Bar No. 24070420
Southern District of Texas
600 E. Harrison Street, Suite 201
Brownsville, Texas 78520
Tel: (956) 548-2554
Fax: (956) 548-2776
Email: christopher.pineda@usdoj.gov

By: *s/Baltazar Salazar*
BALTAZAR SALAZAR
Assistant United States Attorney
S.D. Tex. ID No. 3135288
Texas Bar No. 24106385
1701 W. Business Hwy 83, Suite 600
McAllen, Texas 78501
Tel: (956) 992-9434
Fax: (956) 618-8016
E-mail: Baltazar.Salazar@usdoj.gov

Attorneys-in-Charge for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on April 11-12, 2019, I mailed a true and correct copy of the foregoing document via regular mail to the interested parties in this case.

By: *s/Christopher D. Pineda*
CHRISTOPHER D. PINEDA
Assistant United States Attorney